

## **Independent Commission on Judicial Reform**

**September 21, 2009 Public Hearing – Judicial Selection**

**West Virginia University College of Law**

### **I. Old Business**

- Minutes

### **II. Overview of Constitutional & Statutory Provisions Governing Judicial Selection**

- Professor Robert M. Bastress, WVU College of Law

*Professor Bastress will brief the Commission on the current constitutional and statutory provisions that establish and govern West Virginia's system of judicial selection.*

### **III. Judicial Selection in Practice**

- Tom Tinder, Executive Director, West Virginia Bar Foundation

*Mr. Tinder will explore the practical application of Article VII, §7 of the Constitution, which requires the Governor to fill vacancies in judicial positions by appointment, including an overview of the number of current judicial officers that were initially selected in this manner.*

### **IV. The “Missouri Plan” – Appointment & Retention Elections**

- The Hon. Laura Denvir Stith, Supreme Court of Missouri

*Judge Stith will brief the Commission on the so-called “Missouri plan,” a judicial selection method that combines appointment and retention elections, offer some insight into how the system works, and describe her personal experience in being appointed and then standing for retention election.*

### **V. Nonpartisan Elections**

- Damon Circosta, North Carolina Center for Voter Education

*Mr. Circosta will describe the contours of North Carolina's 2002 judicial reform efforts, which included a switch from partisan elections to nonpartisan elections for appellate court races. Additionally, Mr.*

*Circosta will describe the subsequent expansion of this reform to all judicial positions in 2004.*

## **VI. Considering Reform**

- Dr. Rachel Paine Caufield, Ph.D., Associate Professor, Opperman Center at Drake University; The American Judicature Society

*Dr. Paine Caufield will focus her presentation on the theoretical and practical issues surrounding judicial selection reform initiatives, as well describe her research into the best practices for judicial nominating commissions.*

- Norman L. Greene; Schoeman, Updike & Kaufman, LLP

*The focus of Mr. Greene's presentation will be on the consistency of existing or proposed methods of judicial selection with the rule of law, including how such methods relate to the concepts of judicial accountability and judicial independence and whether they are consistent with a judiciary which is fair and impartial and otherwise in line with recognized notions of judicial quality; and supplemental means for achieving such goals.*

- Dr. Tom Clark, Ph.D., Assistant Professor, Emory University

*Dr. Clark will offer his perspective on judicial selection reform efforts, largely based on his empirical research regarding the impact of nonpartisan elections on judicial independence.*

- Dr. Chris W. Bonneau, Associate Professor of Political Science, University of Pittsburgh

*Dr. Bonneau, coauthor of the recently published "In Defense of Judicial Elections," will brief the Commission on his extensive research into nearly two decades of state judicial elections data.*

## **VII. Public Opinion on Judicial Selection**

- Mark Blankenship, Mark Blankenship Enterprises.

*Mr. Blankenship will brief the Commission on recent public opinion surveys conducted by his firm that may illuminate how West Virginian voters perceive issues surrounding our current method of judicial selection and proposed reforms.*

**VIII. Input from the Bar**

- Allan Karlin, Immediate Past President, West Virginia Association for Justice
- Thomas J. Hurney, Jr., Immediate Past President, West Virginia Defense Trial Counsel

**IX. Input from Business & Labor**

- Kenny Perdue, President, West Virginia AFL-CIO
- Steve Roberts, President, West Virginia Chamber of Commerce

**X. Judicial Input Regarding Methods of Judicial Selection**

- Steve Canterbury, Administrative Director, Supreme Court of Appeals

*Mr. Canterbury will be invited to offer thoughts on behalf of the court system regarding judicial selection, as well any logistical issues raised by the potential transition to another system of selection.*

- The Hon. O.C. Spaulding, West Virginia Judicial Association
- The Hon. Ronald Anderson, West Virginia Family Judicial Association

*Judge Spaulding and Judge Anderson represent the voluntary association of West Virginia state court judges and the voluntary association of state family court judges, respectively. Having been through the judicial electoral process themselves, they – and their members – can provide unique insight into the advantages and disadvantages of the current system, the merits of proposed reforms, and the effect that such proposals could have in specific instances.*

**XI. Legislative Input**

- The Hon. John Doyle, West Virginia House of Delegates

**XII. Public Comment**

**XIII. COMMITTEE DISCUSSION & NEXT STEPS**